

under Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), for which a penalty may be assessed pursuant to Section 14(a) of FIFRA.

## **XII. RCRA COMPLIANCE AGREEMENT**

Based on the foregoing Preliminary Statements, Allegations and Determinations, the Parties agree to the following:

87. Although a majority of Walmart Retail Facilities may qualify as CESQGs in any given month (pursuant to 40 C.F.R. § 261.5), the hazardous waste management program implemented by Respondent at Walmart Retail Facilities, as referenced in Paragraphs 87-95, generally seeks to satisfy RCRA Small Quantity Generator requirements. To the extent Consumer Products continue to be subject to RCRA hazardous waste requirements when discarded, Walmart agrees to:
- a. As applicable, Respondent shall ensure that all Walmart Retail Facilities have an EPA identification number, pursuant to 40 C.F.R. § 262.12.
  - b. At all Walmart Retail Facilities, Respondent will properly segregate and store all hazardous wastes for no more than 180 days (270 days if the waste must be shipped more than 200 miles to a treatment, storage, or disposal facility) and comply with all other requirements applicable to Small Quantity Generators at 40 C.F.R. § 262.34.
  - c. Respondent shall properly package, label, mark, and placard all hazardous waste shipments from Walmart Retail Facilities pursuant to 40 C.F.R. §§ 262.30 – 262.33.
  - d. Respondent shall comply with all manifest and related requirements for hazardous wastes shipped from Walmart Retail Facilities pursuant to 40 C.F.R. §§ 262.20 – 262.27.
  - e. Respondent shall only use transporters that have an EPA identification number to transport hazardous wastes from Walmart Retail Facilities.
  - f. Respondent shall send all hazardous wastes generated at Walmart Retail Facilities to treatment, storage, or disposal facilities that have an EPA identification number.

review, Respondent will manage as hazardous waste in accordance with this CAFO. Respondent shall submit this report on January 31 of each calendar year for as long as this CAFO is in effect, with a reference to the RCRA docket number for this agreement, to the following person:

Rosemarie A. Kelley  
Director, Waste and Chemical Enforcement Division  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave, N.W. (MC 2249A)  
Washington, DC 20460

92. At each Retail Facility, Respondent shall maintain a current database of all Consumer Products that should be managed as hazardous waste pursuant to this agreement and shall make the information available to any EPA or State official conducting a RCRA compliance inspection at that Retail Facility. This database shall be the same or similar as the handheld terminal-type system described in Paragraph 93(a).

93. As of the date of filing of this CAFO, Walmart has already taken steps to improve its environmental compliance program to address the allegations in this CAFO and to ensure compliance with all applicable environmental laws related to Walmart's Reverse Distribution Processes and hazardous waste management. Generally, these steps include an improved hazardous waste management system at Walmart Retail Facilities, development of enhanced hazardous waste training programs for Walmart Retail Facility Associates, and the development of various standardized operating procedures. Specifically, Walmart agrees to the following programs that have been implemented in response to the allegations of the United States:

a. Implementation of Improved Hazardous Waste Management System at Retail Facilities.

Walmart has engaged a third-party consultant to review the Consumer Products to be sold at a Retail Facility and determine if those products, if discarded by Walmart, would be considered hazardous waste pursuant to RCRA ("RCRA Items"). Once the RCRA Items are identified, either through the third-party consultant or by the supplier(s) of the RCRA Item, that information is then loaded into the Retail Facilities' handheld terminal (or

- d. Corporate Compliance Structure. In addition to existing Walmart personnel with environmental compliance responsibilities within a particular home office department, Walmart has created a home office vice president position responsible for environmental compliance. Walmart has, when needed, increased the staffing resources of the Vice President of Environmental Compliance in order to oversee proper implementation of the above programs.

94. In addition to requiring continued operation of its hazardous waste management programs, a purpose of this CAFO is to require Walmart to implement an Environmental Management System (EMS) in all of its Retail Facilities located in the United States. This EMS will not only advance compliance with environmental regulatory requirements, including Walmart's management of hazardous materials and hazardous waste and reduction of waste generated from its Retail Facilities, but will also achieve enhanced compliance at Return Centers, and Distribution Centers. To that end, Walmart has agreed to implement enhanced EMS procedures. These enhanced procedures, detailed further in Appendix A, include the following:

- a. Reorganization of Walmart's Home Office Environmental Compliance Organization. In order to provide increased resources and support structure to Walmart Retail Facilities, Walmart will reorganize its Home Office Environmental Compliance organization in order to ensure a uniform reporting structure under the Vice President of Environmental Health and Safety Compliance. The net effect of the reorganization will be a more uniform environmental command structure and improved environmental communications, resulting in a more robust organization available to address environmental compliance issues.
- b. Addition of Resources Outside of Home Office for Stores. Walmart will implement resources outside of Home Office to assist Stores in compliance with hazardous waste and hazardous materials laws and regulations. These resources will be responsible for

environmental compliance consultant for the development and implementation of a Return Center specific Hazardous Waste EMS. In addition, Walmart will contract with a third-party environmental compliance consultant for the development and implementation of a Distribution Center specific Hazardous Waste EMS.

95. Walmart will perform the EMS procedures as set forth in Paragraph 94 in accordance with the specifications and schedules set forth in Appendix A.
96. Respondent shall certify compliance to EPA with the appropriate documentation to certify that Respondent is complying with the requirements set forth in Paragraphs 87-95 above, within ninety (90) calendar days of the schedule provided for completion in Appendix A. The certification and supporting documentation should be provided to:

KC Schefski, Associate Director  
Waste and Chemical Enforcement Division  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W. (2249A)  
Washington, DC 20460

97. Respondents shall be liable for stipulated penalties to the EPA, as specified below, for failure to comply with the requirements of this CAFO, unless excused by EPA in its sole discretion. Compliance by Respondent shall include the timely completion and submittal of all plans and reports required by this agreement or any subsequent modification. Respondent shall pay stipulated penalties in the following amounts for the following obligations in the amounts set forth below:
- a. for failure to timely submit reports, plans, notifications, or other submittals required in this CAFO or its Appendices;
  - b. for failure to timely meet any deadlines set forth in the Resources, Systems, and Accountability Work Plan to be submitted pursuant to Appendix A;